

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

JOANN WRIGHT HAYSBERT,

Plaintiff,

v.

BLOOMIN' BRANDS, INC., et al.

Defendants.

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Case No.: 4:20-cv-00121-RBS-DEM

Assigned to

District Court Judge

Rebecca Beach Smith

[Filed concurrently with Memo of

Points & Authorities; Declaration of

Nazareth M. Haysbert;

[Proposed] Order]

**PLAINTIFF'S SECOND EMERGENCY MOTION TO EXTEND
PLAINTIFF'S DISCOVERY DEADLINE**

**TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF
RECORD:**

PLEASE TAKE NOTICE THAT Plaintiff Joann Wright Haysbert ("Plaintiff") hereby moves this Court on an emergency basis for an Order continuing Plaintiff's discovery deadline related to depositions and outstanding subpoenas, based on the following good cause:

1. Due to a medical emergency the morning of July 6, 2021, Nineveh Haysbert was unable to attend her scheduled deposition as duly noticed by Plaintiff, which must be rescheduled for a date after Plaintiff's current discovery cutoff.

Additionally, due to unexpected discrepancies regarding the service of a deposition subpoena, Christina Crowell refused to attend her scheduled deposition on July 7, 2021, as duly noticed by Plaintiff, which must be rescheduled for a date after Plaintiff's current discovery cutoff.

2. The Court has recently granted the City of Chesapeake's Third-Party Motion to Modify Subpoena Duces Tecum to have a return date of July 22, 2021, and has allowed Plaintiff to depose Defendant Outback Steakhouse of Florida, LLC's person most knowledgeable regarding the floor repair work order by July 15, 2021, and as such the Court has recognized Plaintiff's need for additional discovery time regarding the flooring of the Chesapeake Outback Steakhouse and the work order. Additionally, Nick Seifert testified in deposition on July 6, 2021 that the information in the work order regarding the identity of the flooring contractor who replaced the flooring of the Chesapeake Outback Steakhouse was potentially inaccurate, and provided the names of two additional contractors who were involved. Given the Court's allowance of additional discovery time on the flooring and work order, Plaintiff must be granted at least a two-week extension to investigate and subpoena records from these contractors.

Ultimately, despite the testimony of Nick Seifert, Defendants' only witness Plaintiff has had the chance to depose since the late disclosure of the work order, the following significant questions remain, or were raised by Mr. Seifert's testimony:

- The identity of the vendor who performed the flooring replacement at the Chesapeake Outback Steakhouse in 2018, whether Performance Flooring, Tony Snider, Tamerlane Flooring, or some other unidentified contractor;
- The role of Tony Snider in the flooring work;
- The existence of a written agreement or separate work order to repair a water leak, separate from the work order for the entire floor replacement;
- The identity of the Outback employee who reported the flooring issues, whether due to water leakage or “lots of slip and falls” as indicated in the work order;
- The existence and nature of correspondence between Outback employees, including Nick Seifert, and Tony Snider;
- Whether, prior to Plaintiff’s slip and fall, the floor was “finished” or “refinished,” and the quality of the finishing or refinishing;
- The identity of the person who made the decision to replace the floor in 2018;
- The exact cost to replace the floor;
- The role and knowledge of Theresa Matthews, Regional Facilities Manager for Defendant Bloomin’ Brands, Inc., in the 2018 flooring replacement, and her knowledge of the basis for the work order request, including the number of slip and falls evident on the face of the work order;
- The extent of Alicia Eleftherion’s, or any other employee or manager’s knowledge of the work order;
- The identity of the person who originally requested the work order, likely a manager of the Chesapeake Outback Steakhouse, and their knowledge of “lots of slip and falls;”

- The existence and nature of correspondence between any Outback or Bloomin' Brands employees regarding the work order and floor replacement;
- The specific area of the floor described in the work order as "floor up front" that needed replacement due to "lots of slip and falls;"
- Why the whole floor was replaced as opposed to the allegedly water-damaged portion; and
- Whether the risk management department of Defendant Bloomin' Brands was aware of the slip and fall data for the subject restaurant, and whether the restaurant maintained such data.

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This Emergency Motion is based on the Memorandum of Points and Authorities, the [Proposed] Order, the files and records in this case, and any evidence and oral argument as may be presented at the hearing on this Motion.

DATED: July 7, 2021

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CERTIFICATE OF SERVICE

JOANN WRIGHT HAYSBERT v. *BLOOMIN' BRANDS, INC., et al.*, Case No.:
4:20-cv-00121-RBS-DEM

I hereby certify that on this July 7, 2021, a true and accurate copy of the foregoing was sent via email:

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